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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/910,429	07/20/2001	Robert T. Baum	Bell-32	2654

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EXAMINER	
PYZOCHA, MICHAEL J	
ART UNIT	**PAPER NUMBER**
2137	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/910,429	BAUM, ROBERT T.	
	Examiner	Art Unit	
	Michael Pyzocha	2137	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 April 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-36* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-36* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-36 are pending.

2. Amendment filed 04/04/2005 has been received and considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 1-4, 6, 14-16, 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wallace (U.S. 5,988,497), further in view of "Data Link Layer" (hereinafter DLL).

As per claims 1 and 33, Wallace discloses examining at least a part of the unique bit string; comparing the at least a part of the unique bit string examined with stored information; and authenticating the party only if the at least a part of the unique bit string examined matches the stored information (see column 1 line 63 through column 2 line 29 where it is inherent

the unique bit string is maintained as the packet is communicated within the network).

Wallace fails to disclose the bit string replacing part of the layer 2 (data link layer) information.

However, DLL teaches the data link layer (see DLL page 1).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Wallace's authentication method in the data link layer of DLL.

Motivation to do so would have been to allow for error detection (see DLL page 1).

As per claims 2, 34 the modified Wallace and DLL system discloses approving a transaction if the party was authenticated (see Wallace column 2 lines 16-29).

As per claim 3, the modified Wallace and DLL system disclose the at least a part of the unique bit string examined depends on a type of the transaction (see Wallace column 2 lines 5-15).

As per claims 4, 6, the modified Wallace and DLL system disclose the stored information compared with the at least a part of the unique bit string examined depends on a type of the transaction (see Wallace column 2 lines 5-15).

As per claims 14-15, the modified Wallace and DLL system discloses the unique bit string is provisioned and controlled by a network service provider (see Wallace column 2 lines 5-29).

As per claim 16, the modified Wallace and DLL system discloses the act of authentication does not require the transmission of any authentication information from the party (see Wallace column 2 lines 5-29).

As per claims 35-36 the modified Wallace and DLL system discloses an output for forwarding an authentication and authorization response to the transaction facility (see Wallace column 1 lines 52-62).

5. Claim 5, 7-13, 17-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Wallace and DLL system as applied to claims 1, 24, 28 above, and further in view of Mori et al (U.S. 5,880,446).

As per claims 24-26, 28-30, the modified Wallace and DLL system discloses examining at least a part of the unique bit string; comparing the at least a part of the unique bit string examined with stored information; and authenticating the party only if the at least a part of the unique bit string examined matches the stored information (see column 1 line 63 through column 2 line 29 where it is inherent the unique bit string is maintained as the packet is communicated within the network).

The modified Wallace and DLL system fails to disclose the unique bit string uniquely identifies the party and an ingress location of the network.

However, Mori et al teaches such information (see column 14 lines 19-40).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Mori et al's information as part of the unique bit string of the modified Wallace and DLL system.

Motivation to do so would have been to include information about the buyer in the transaction (see column 14 lines 19-40).

As per claim 5, the modified Wallace, DLL and Mori et al system discloses the type of transaction is selected from a group of transaction types consisting of: transactions greater than a predetermined amount; transactions less than a predetermined amount; purchases delivered to a credit card billing device; and purchases delivered to an address other than a credit card billing address (see Mori et al column 14 lines 19-40).

As per claims 7-13 the modified Wallace, DLL and Mori et al system discloses the at least a part of the unique bit string examined identifies a location at which packets from the party to the transaction entered the network; a group to which an

individual, who is a party to the transaction, belongs; a customer that is a party to the transaction; a customer identification; an individual user identification; a network ingress location (see Mori et al column 14 lines 19-40).

As per claim 17, the modified Wallace, DLL and Mori et al system discloses tracking a network ingress location at which a packet associated with a transaction originated, wherein packets entering the network have at least a part of a layer 2 information replaced with a unique bit string, the method comprising: examining at least a part of the unique bit string; and determining the network ingress location from the at least a part of the unique bit string (see Wallace and DLL as applied to claim 1 where the transaction data now contains the location data of Mori et al column 14 lines 19-40).

As per claims 18-21 the modified Wallace, DLL and Mori et al system discloses the at least a part of the unique bit string examined identifies an individual who is a party to the transaction; a group to which an individual, who is a party to the transaction, belongs; a customer that is a party to the transaction; a customer identification; an individual user identification; a network ingress location (see Mori et al column 14 lines 19-40).

As per claims 22-23, the modified Wallace, DLL and Mori et al system discloses the unique bit string is provisioned and controlled by a network service provider (see Wallace column 2 lines 5-29).

As per claims 27, 31 the modified Wallace, DLL, and Mori et al system discloses the unique bit string identifies a logical port at which the packet entered the network (see Mori et al column 14 lines 19-40).

As per claim 32, the modified Wallace, DLL, and Mori et al system discloses no information in addition to the unique bit string is needed for authentication the party to the transaction (see Wallace column 2 lines 5-29).

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4, 6, 14-16, 33-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 21 of U.S. Patent No. 6850495 in view of Wallace.

As per claims 1 and 33, the patented claims disclose examining at least a part of the modified layer 2 unique bit string; comparing the at least a part of the unique bit string examined with stored information; and authenticating the party only if the at least a part of the unique bit string examined matches the stored information.

The patented claims fail to disclose the bit string is used to authenticate a party to a transaction.

However, the Wallace teaches authenticating a part to a transaction using a unique bit string (see column 1 line 63 through column 2 line 29).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Wallace's authentication bit string in the patented claims layer 2 information.

Motivation to do so would have been to allow authenticate a user to a transaction (Wallace column 1 line 63 through column 2 line 29).

As per claims 2, 34, the patented claims modified by Wallace disclose approving a transaction if the party was authenticated (see Wallace column 2 lines 16-29).

As per claim 3, the modified Wallace and DLL system disclose the at least a part of the unique bit string examined depends on a type of the transaction (see Wallace column 2 lines 5-15).

As per claims 4, 6, the patented claims modified by Wallace disclose the stored information compared with the at least a part of the unique bit string examined depends on a type of the transaction (see Wallace column 2 lines 5-15).

As per claims 14-15, the patented claims modified by Wallace disclose the unique bit string is provisioned and controlled by a network service provider (see Wallace column 2 lines 5-29).

As per claim 16, the patented claims modified by Wallace disclose the act of authentication does not require the transmission of any authentication information from the party (see Wallace column 2 lines 5-29).

As per claims 35-36 the patented claims modified by Wallace disclose an output for forwarding an authentication and authorization response to the transaction facility (see Wallace column 1 lines 52-62).

7. Claims 5, 7-13, 17-32 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 21 of U.S. Patent No. 6850495 in view of Wallace and further in view of Mori et al (U.S. 5,880,446).

As per claims 24-26, 28-30, the patented claims modified by Wallace disclose examining at least a part of the unique bit string; comparing the at least a part of the unique bit string examined with stored information; and authenticating the party only if the at least a part of the unique bit string examined matches the stored information (see column 1 line 63 through column 2 line 29 where it is inherent the unique bit string is maintained as the packet is communicated within the network).

The patented claims modified by Wallace fail to disclose that the unique bit string uniquely identifies the party and an ingress location of the network.

However, Mori et al teaches such information (see column 14 lines 19-40).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Mori et al's information as part of the unique bit string of the patented claims modified by Wallace disclose.

Motivation to do so would have been to include information about the buyer in the transaction (see column 14 lines 19-40).

As per claim 5, the patented claims modified by Wallace and Mori disclose the type of transaction is selected from a group of transaction types consisting of: transactions greater than a predetermined amount; transactions less than a predetermined amount; purchases delivered to a credit card billing device; and purchases delivered to an address other than a credit card billing address (see Mori et al column 14 lines 19-40).

As per claims 7-13 the patented claims modified by Wallace and Mori disclose the at least a part of the unique bit string examined identifies a location at which packets from the party to the transaction entered the network; a group to which an individual, who is a party to the transaction, belongs; a customer that is a party to the transaction; a customer identification; an individual user identification; a network ingress location (see Mori et al column 14 lines 19-40).

As per claim 17, the patented claims modified by Wallace and Mori disclose tracking a network ingress location at which a

packet associated with a transaction originated, wherein packets entering the network have at least a part of a layer 2 information replaced with a unique bit string, the method comprising: examining at least a part of the unique bit string; and determining the network ingress location from the at least a part of the unique bit string (see Wallace and DLL as applied to claim 1 where the transaction data now contains the location data of Mori et al column 14 lines 19-40).

As per claims 18-21 the patented claims modified by Wallace and Mori disclose the at least a part of the unique bit string examined identifies an individual who is a party to the transaction; a group to which an individual, who is a party to the transaction, belongs; a customer that is a party to the transaction; a customer identification; an individual user identification; a network ingress location (see Mori et al column 14 lines 19-40).

As per claims 22-23, the patented claims modified by Wallace and Mori disclose the unique bit string is provisioned and controlled by a network service provider (see Wallace column 2 lines 5-29).

As per claims 27, 31 the patented claims modified by Wallace and Mori disclose the unique bit string identifies a

logical port at which the packet entered the network (see Mori et al column 14 lines 19-40).

As per claim 32, the patented claims modified by Wallace and Mori disclose no information in addition to the unique bit string is needed for authentication the party to the transaction (see Wallace column 2 lines 5-29).

8. Claims 1-36 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 26 of U.S. Patent No. 6771673 similarly applied to Wallace and Mori as above.

Response to Arguments

9. Applicant's arguments filed 04/04/2005 have been fully considered but they are not persuasive. Applicant argues: Wallace, DLL and Mori alone or in combination fail to teach packets entering a network that have at least part of layer 2 information replaced with a unique bit string; there is no motivation to combine DLL with Wallace; and Mori alone or in combination does not disclose information that uniquely identifies a party and a network ingress location.

Regarding Applicant's argument that Wallace, DLL and Mori alone or in combination fail to teach packets entering a network that have at least part of layer 2 information replaced with a

unique bit string, Wallace discloses the unique bit string and when the unique bit string is sent across a network using the data link layer (layer 2) the payload is replaced with the unique bit string of Wallace and the payload is layer 2 information. (Where as described in DLL a frame is equivalent to a packet) It appears that Applicant is arguing that the layer 2 information being changed is in the header (as in the specification), which is not a claimed limitation.

Regarding Applicant's argument that there is no motivation to combine DLL with Wallace, the ability to have error detection is the motivation to send Wallace's unique bit string using the data link layer. This allows the receiver to determine if a frame has been damaged during transit as further described on page 1 of DLL.

Regarding Applicant's argument that Mori alone or in combination does not disclose information that uniquely identifies a party and a network ingress location, Applicant is again directed to column 14 lines 19-40 where the buyer's IP address identifies ingress location and the other information (name, address, telephone number, mail address) in combination with Wallace's PIN uniquely identify the party.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ames et al (US 6058429) teaches changed layer 2 information.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew Caldwell

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER